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Person To Contact: _____, ID No. _____

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Refer Reply To:
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PLR-116159-09

Date:
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LEGEND

Parent =

Regulator =

Other Regulators =

Merger Sub =

Bank =

Target =

$$T_{\text{Sub } 1} =$$

TSub 2 =

Business 1 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

X =

y% =

z% =

Dear :

This is in reply to your authorized representative's letter dated May 18, 2009, requesting rulings regarding certain Federal income tax consequences resulting from an ownership change as defined in § 382(g) of the Internal Revenue Code. Additional information was received in letters dated June 5, 2009, July 23, 2009, and September 17, 2009. The information submitted is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

Parent is a bank holding company and the common parent of a affiliated group of corporations that file a consolidated federal income tax return. Parent is supervised and

regulated by Regulator. In addition, Parent's banking and securities subsidiaries are supervised by various Other Regulators. Two of Parent's wholly owned subsidiaries are Merger Sub and Bank, a national banking association. Target is a diversified financial marketing and services holding company. Target wholly owns TSub 1 and TSub 2, all of which are engaged in Business 1.

Target has experienced financial distress as a result of the collapse of the private, secondary market for non-conforming securities on Date 2. The market collapse caused Target to experience the following adverse consequences, among others:

(1) Target was forced to hold assets originally intended to be short term assets for much longer periods of time and therefore Target did not have the cash on hand to pay its liabilities when they became due; (2) Target exhausted a line of credit it had with a banking consortium; (3) Target was cited for possible Bankruptcy by a financial management and advisory company; (4) Target's stock suffered a significant decline in value; and (5) Target's term debt credit ratings were downgraded.

On Date 3, Bank entered into an investment agreement with Target pursuant to which Target issued and sold to Bank X shares of y% convertible Preferred Stock (the "Capital Contribution"). The investment in Target stock was typical of investments Bank had previously made. At the time of issuance the preferred stock constituted approximately z% of the total value of Target's outstanding stock. The Capital Contribution was made during the two-year period ending on Date 4, which is the consummation of the Transaction defined below. Target used the Capital Contribution to continue Target's basic business operations.

Transaction

On Date 4, Target merged with and into Merger Sub, with Merger Sub continuing as the surviving company (the "Merger"). In the Merger, Parent acquired all of Target's outstanding stock in exchange for Parent stock. As a result of this Transaction, Target underwent an ownership change as defined in § 382(g).

Representations

The following representations have been submitted regarding the Transaction and the Capital Contribution:

- (a) Target is the parent of a loss group as defined in Treas. Reg. § 1.1502-91(c).
- (b) Prior to the Transaction, Target had not undergone an ownership change since Date 1 (a date more than three years before Date 4).
- (c) The Transaction constituted a reorganization under § 368(a) of the Code.

(d) The Transaction caused an ownership change as defined in § 382(g) for Target on the date the Transaction was consummated.

(e) The Capital Contribution was used solely to alleviate the financial distress of Target and continue Target's basic business operations.

Ruling

Based solely on the information submitted and the representations set forth above, we rule that the Capital Contribution will not be excluded from the value of the old loss corporation under § 382(l)(1) for purposes of computing the value of the old loss corporation and the § 382 limitation within the meaning of § 382(b).

Caveats

We express no opinion concerning the federal tax consequences of the Transaction under any other provision of the Code or regulations, or concerning any conditions existing at the time of, or effects resulting from, the Transaction that are not specifically covered by the above ruling.

Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Lisa A. Fuller
Senior Counsel, Branch 1
Office of Associate Chief Counsel (Corporate)